

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JEFFREY L. PELKEY,

Petitioner,

v.

9:04-CV-0300
(GTS/VEB)

R.A. GIRDICH,

Respondent.

APPEARANCES:

JEFFREY L. PELKEY, 00-A-4448
Petitioner, *Pro Se*
Eastern NY Correctional Facility
Box 338
Napanoch, NY 12458

HON. ANDREW M. CUOMO
Attorney General for the State of New York
Counsel for Respondent
120 Broadway
New York, NY 10271

HON. GLENN T. SUDDABY, United States District Judge

OF COUNSEL:

PRISCILLA I. STEWARD, ESQ.
Assistant Attorney General

Jeffrey L. Pelkey ("Petitioner") brought this petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254. (Dkt. No. 1.) By Report-Recommendation dated January 5, 2009, the Honorable Victor E. Bianchini, United States Magistrate Judge, recommended that the petition be denied and dismissed, and that a certificate of appealability not be issued. (Dkt. No. 53.) Petitioner has not filed any objections to the Report-Recommendation within the time allotted.

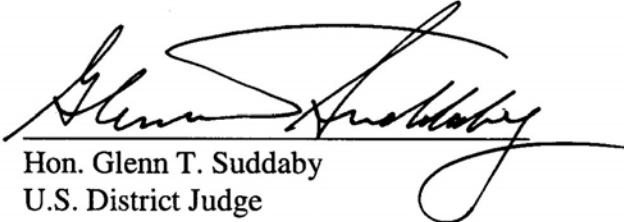
See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); N.D.N.Y. L.R. 72.1(c); Fed. R. Civ. P. 6(a)(2), (d). Based upon a careful review of the entire file and the recommendations of Magistrate Judge

Bianchini, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. *See* 28 U.S.C. § 636(b)(1).

ACCORDINGLY, it is

ORDERED that Magistrate Judge Bianchini's Report-Recommendation (Dkt. No. 53) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further
ORDERED that Petitioner's petition (Dkt. No. 1) is **DENIED** and **DISMISSED** in its entirety; and it is further
ORDERED that a Certificate of Appealability will not be issued; and it is further
ORDERED that the Clerk of the Court shall enter judgment accordingly and close the file.

Dated: January 28, 2009
Syracuse, New York



Hon. Glenn T. Suddaby
U.S. District Judge